

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 24 Protection of Privacy

Subject: 24.2 Freedom of Information Act and California Public Records Act

PURPOSE: This standard practice (SP) describes the procedures to follow when a request is received for information relating to any procurement action under the Freedom of Information Act (FOIA) or the California Public Records Act (CPRA).

POLICY: The Laboratory will make available to the public information relating to any procurement action in its possession and control when the information is requested by and disclosable to the public under FOIA or CPRA.

SCOPE: This SP applies to all information relating to any procurement action, including IUTs.

DEFINITIONS:

California Public Records Act (CPRA) The California Public Records Act (CPRA) is the California statute that provides for public access to information in the possession of California public agencies unless otherwise exempted.

Freedom of Information Act (FOIA)/California Public Records Act (CPRA) Coordinator The Freedom of Information Act (FOIA)/California Public Records Act (CPRA) Coordinator is Laboratory Counsel.

Freedom of Information Act (FOIA) The Freedom of Information Act is the federal law that provides for release of government-owned information to the public unless otherwise exempted.

Government-Owned Information Government-owned information, as used in this SP, means all records acquired or generated by the Laboratory in performance of the Prime Contract, except for Laboratory-owned information (per the *Access to and Ownership of Records* clause of the Prime Contract).

Government-owned information includes: financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the Laboratory in connection with the work under the Prime Contract, other applicable credits, and fee accruals under the Prime Contract (per the *Accounts, Records, and Inspection* clause of the Prime Contract).

Laboratory-Owned Information Laboratory-owned information, as used in this SP, includes records relating to any procurement action by the Laboratory, except for records that under the *Accounts, Records, and Inspection* clause are described as the property of the Government (see definition of Government-owned information

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for description of such records).

Proprietary Information

Proprietary information is information provided to the Laboratory by a subcontractor that is considered by the Laboratory or has been identified by the subcontractor as being privileged, trade secret, or financial information.

PROCEDURES:

Requests Under FOIA

All requests for government-owned information made pursuant to FOIA must be submitted in writing to the cognizant DOE Freedom of Information Officer. Written requests received by the procurement specialist must, upon the Procurement Manager's approval, be immediately forwarded to the Laboratory FOIA Coordinator, for forwarding to the DOE Freedom of Information Officer, to ensure that strict time standards imposed by the FOIA are satisfied.

The determination to release and the actual release of the requested information shall be made by the DOE Freedom of Information Officer. Any information the Laboratory considers or is designated by the subcontractor as proprietary must be called to the attention of the DOE Freedom of Information Officer and the Laboratory FOIA Coordinator. The name and telephone number of the individual responsible for designating the information as proprietary, if known, shall be included in the correspondence to the DOE Freedom of Information Officer and Laboratory FOIA Coordinator.

Requests Under CPRA Information

All requests for Laboratory-owned information made pursuant to CPRA must, upon the Procurement Manager's approval, be forwarded to the Laboratory CPRA Coordinator. The determination to release and the actual release of the requested information shall be made by the Laboratory CPRA Coordinator. Any information the Laboratory considers or is designated by the subcontractor as proprietary must be called to the attention of Laboratory CPRA Coordinator. The name and telephone number of the individual responsible for designating the information as proprietary, if known, shall be included in the correspondence to the Laboratory CPRA Coordinator.

Proposals and Proprietary Information

When appropriate to ensure that offerors understand their responsibility to identify proprietary information, the procurement specialist should include provisions in written solicitations regarding the submittal of proposals containing proprietary information and its identification, and the Laboratory's intended safeguarding of such information.

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Proposals containing proprietary information must be safeguarded so that the information is not disclosed outside of the Laboratory without the permission of the offeror.

Data Collection and Other Information

The Laboratory will not generate any data to satisfy a request for information under FOIA or CPRA. The Laboratory will not provide any information other than that specifically requested in a request for information under FOIA or CPRA.

REVIEW/ APPROVAL:

Procurement Manager

The Procurement Manager must approve any release of information requested under FOIA or CPRA.

Laboratory FOIA/CPRA Coordinator

The Laboratory FOIA/CPRA Coordinator must approve any release of Laboratory-owned information requested under CPRA.

DOE Freedom of Information Officer

The DOE Freedom of Information Officer must approve any release of Government-owned information requested under FOIA.

RESPONSIBILITIES:

Procurement Specialist

The procurement specialist is responsible for:

- Forwarding written requests for information to the Laboratory FOIA/CPRA Coordinator;
- Collecting all subcontract or IUT information requested;
- Identifying for the DOE Freedom of Information Officer and Laboratory FOIA/CPRA Coordinator any requested proprietary information;
- Obtaining the approval of the Procurement Manager for all subcontract or IUT information to be released under FOIA or CPRA; and
- Including provisions in written solicitations regarding the submittal of proposals containing proprietary information and its identification, and the Laboratory's intended safeguarding of such information, when appropriate.

REFERENCES:

Prime Contract Clause I.80 - Access to and Ownership of Records
Prime Contract Clause I.103 - Accounts, Records, and Inspection